

U.S. F&W Comment on P. 4

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SERVICE DATE - APRIL 28, 2004

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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

REC'D MAY 03 2004

[STB Docket No. AB-103 (Sub-No. 17X)]

The Kansas City Southern Railway Company—Abandonment Exemption—in Jackson
County, MO

On April 8, 2004, The Kansas City Southern Railway Company (KCSR) filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903-05 to abandon approximately 1.3 miles of its line of railroad known as the Second Street Track located in Kansas City, Jackson County, MO. The line consists of two segments: (1) the first segment extends from milepost 0+/-, located in an unused rail yard, to milepost 0+5188'+/-, at the crossing of the Second Street Track and a Union Pacific Railroad Company line, a distance of approximately 0.98 miles; and (2) the second segment branches off northwest from the first segment between Main Street and Grand Avenue at milepost 0-W of that line, and continues west to approximately milepost 0+1518'-W at the east end of railroad bridge B-1-W.¹ The line traverses United States Postal Service Zip Code 64105 and includes no stations.

In addition to an exemption from 49 U.S.C. 10903, petitioner seeks exemption from 49 U.S.C. 10904 [offer of financial assistance (OFA) procedures] and 49 U.S.C.

¹ KCSR notes that bridge B-1-W was incorrectly identified as bridge C-1-W in KCSR's newspaper notice of the proposed abandonment, published in the Kansas City Star on March 8, 2004, but the location of the bridge was correctly stated.

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10905 [public use conditions]. KCSR also seeks relief from the trail use provisions of the Board's regulations at 49 CFR 1152.29, which indicates that KCSR is not likely to be willing to enter into any negotiations for use of the line as a trail. In support, KCSR contends that exemption from these provisions is necessary to allow redevelopment of the River Market area by the City of Kansas City (the City) in a manner consistent with the surrounding community and the City's approved redevelopment plan for the area. These requests will be addressed in the final decision.

The line does not contain federally granted rights-of-way. Any documentation in KCSR's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by July 27, 2004.

Any OFA under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a \$1,100 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Unless the Board grants the requested exemption from public use provisions, any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than May 10, 2004. Each trail use request

must be accompanied by the filing fee, which is scheduled to increase to \$200, effective April 28, 2004. See 49 CFR 1002.2(f)(27).²

All filings in response to this notice must refer to STB Docket No. AB-103 (Sub-No. 17X) and must be sent to: (1) Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001; and (2) William A. Mullins, Baker & Miller, PLLC, 2401 Pennsylvania Avenue, N.W., Suite 300, Washington, DC 20037. Replies to the KCSR petition are due on or before May 10, 2004.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA, will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition.

² See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services-2002 New Fees, STB Ex Parte No. 542 (Sub-No. 4) (STB served Mar. 29, 2004).

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The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on the Board's website at "WWW.STB.DOT.GOV."

Decided: April 20, 2004.

By the Board, David M. ~~Ronsch~~, Director, Office of Proceedings.

Vernon A. Williams

Secretary

"The U.S. Fish and Wildlife Service has reviewed the subject project proposal and determined that no federally listed species or designated critical habitat occurs within the project area; consequently this concludes section 7 consultation. Please contact the Missouri Department of Conservation (573/751-4115) for state listed species of concern."

for to Rick L. Hansen 5 May 2004
Field Supervisor Date